CONSUMER BANKERS ASSOCIATION *The Association for Retail Banks and Thrift Institutions*

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December 16, 1997

Ms. Cynthia L. Johnson
Director, Cash Management Policy and Planning Division
Financial Management Service
U.S. Department of the Treasury - Room 420
401 14th Street S.W.
Washington, D.C. 20227

Re: EFT '99 Proposal
31 CFR Part 208; RIN 1510-AA56

Dear Ms. Johnson:

The Consumer Bankers Association[1] (CBA) appreciates the opportunity to comment on the Treasury Department's ("Treasury") proposal to implement EFT '99 (the "Proposal") (62 FR 48714). We support the EFT '99 initiative and believe converting the current paper-based system to electronic transfer is good public policy.

CBA members have been active participants in state and federal electronic benefit transfer (EBT) programs. Several members have expressed potential interest in offering the electronic transactions account (the "ETA") that Treasury intends to put out for bid, while others have expressed interest in facilitating direct deposit for benefits recipients through low-cost accounts.

We appreciate the efforts expended by Treasury and Financial Management Services (FMS) in this area and recognize the difficulty in making this workable. As you contemplate final action on the Proposal, we urge you to focus on two areas that could have a significant impact on the success of the program: consumer education and the ETA. In addition, we have several other concerns.

1. Consumer Education

One of the most important aspects of preparing for EFT '99 is consumer education and training. There are two distinct target groups of the necessary EFT '99 education campaign: recipients with a banking relationship and recipients without bank accounts (RWOBAs).

Even for those who already have accounts, preparing consumers for EFT '99 will require a significant amount of education. The experience of CBA members educating consumers about direct deposit and

[1] The Consumer Bankers Association is the recognized voice on retail banking issues in the nation's capital. Member institutions are the leaders in consumer, auto, home equity and education finance, electronic retail delivery systems, privacy, fair lending, bank sales of investment products, small business services, and community development. CBA was founded in 1919 to provide a progressive voice in the retail banking industry. CBA members hold more than 900 bank and thrift charters with total assets of more than $2.9 trillion.

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other alternative banking has taught us that a continuous education initiative can yield a good measure of success.

For RWOBA's, we still do not have a very clear idea why many people choose not to have accounts at financial institutions. Recent studies seem to suggest that there are many reasons that range from cultural concerns about the banking system to problems stemming from account maintenance. Any education campaign, to be successful, must be tailored to these distinct reasons and not take a broad brush approach. At the forum we co-sponsored with the OCC in February, "Financial Access in the 21st Century," RWOBAs were discussed at length. One theory that became apparent is that people generally behave in a manner that is rational given their perceived circumstances. Education which is successful must focus on these unique needs. This will require an enormous commitment of human and financial resources. One of the lessons that the banking industry has learned about consumer education efforts is that a community-based endeavor, using churches and other grass-roots organizations as conduits, is most likely to be successful. Brochures and envelope stuffers simply will not suffice. Further, neither banks nor government would be effective without the efforts of a community-based, grass-roots initiative to respond to consumer concerns and explain the benefits of EFT '99.

Education of this kind is very costly. One example of the magnitude of the costs is a public education campaign directed solely at Californians. The Public Utilities Commission (PUC) in California estimates $73 million will be spent in less than one year to educate state residents that they can choose their electric company. Certainly, introducing roughly 10 million people to the banking system while simultaneously weaning millions of others off of checks will require a good deal of money. Perhaps Treasury could analyze the PUC program and use it as a benchmark (see attached article from The San Francisco Chronicle--note that original estimate of $89 million has been reduced to $73 million).

2. Electronic Transactions Account (ETA)

The best possible ETA will be derived from a market-driven process. To achieve this, Treasury must allow flexibility when accepting bids. Success will be difficult to achieve if the government imposes rigid rules for the structure of and access to the ETAs. Treasury should not prescribe the delivery mechanisms and features of the account, such as fees or the number of transactions per month. Specific features should be left to the market in the bidding process. Doing otherwise will restrict the creativity needed to construct the most attractive and efficient account at the lowest cost. Furthermore, if the parameters are too rigid, there will not be a market solution.

Treasury has solicited comment on whether the ETA should offer additional features, such as third party payment capability. Again, we believe that Treasury should allow the bidding and contracting process to yield the best account. Financial institutions should be able to bid on a core account with the only requirement being that it accept direct deposit and permit access. Some banks may choose to include access via ATM and POS terminals, while others may choose to permit access only via ATMs if it may lower the cost of the account. There may even be some that would use paper in certain circumstances. Any additional features could be made available to recipients at additional cost or by opening one of the institution's regularly offered accounts.

CBA members who participated in state EBT programs have found the number of account access points to be an important factor to the success of the program. We believe the same will hold true for the ETAs. For financial institutions to guarantee an appropriate level of access via electronic terminals, we strongly urge that Treasury not regulate ATM convenience fees that may apply to these accounts. The ability of banks to impose fees for ATM transactions has resulted in the addition of thousands of new ATMs, especially in remote areas. The continued ability to impose fees may be necessary if banks are to expand ATM locations into areas easily accessible by benefits recipients.

Financial institutions should not be expected to subsidize either the operation of the ETAs or the introduction of additional features or more sophisticated banking transactions. There will be costs associated with the development and operation of the ETAs and limited opportunity to expand the products and services sold to participants. However, to facilitate additional features, such as a savings component, there should be no restrictions on the ability of banks to cross-market their other products and services to recipients using ETAs. Furthermore, banks that elect to bid on and are chosen as providers of ETAs should have the flexibility to change features of the account to respond to consumer needs and fully take advantage of new technology.

We support the provision in the proposal that permits users of ETAs to retain the right to establish their own account relationships at institutions of their choice if they no longer wish to use their ETA.

We have a number of questions concerning the control of the ETA and the effect of control on the operation and pricing of the account. It is unclear who would control the account. For example, can an account be closed by a financial institution if the account is abused? Also, will the bank be responsible for Regulation E compliance if Treasury owns the account and it is merely using the bank as its conduit? The ability to treat the consumer as a customer of the financial institution rather than the government would seem to be desirable from a public policy perspective, and the ownership and control of the account relationship will be important to providers that want to manage the account in the most efficient manner. These issues may best be left to the bidding and contracting process, but must be addressed.

Relief from the regulatory burdens associated with deposit account products might prove valuable to a successful product. For example, compliance with periodic statement and disclosure requirements is a major component of the pricing of deposit account services. CBA believes that it is possible to relieve financial institutions from many of these regulatory requirements without limiting consumer protections. For example, Regulation E could be amended to permit customers to call for account balances, using technology such as voice-response units (VRUs) rather than require periodic statements for ETAs.

3. <u>CRA Treatment</u>

Some Community Reinvestment Act (CRA) consideration under the service test should go to institutions who offer ETAs. Favorable treatment should be available even when the accounts are provided to consumers who live outside the institution's assessment area. In addition, providing such accounts to consumers should not have a negative effect on an institution's CRA performance rating in any area. For example, it should not be used to affect unfavorably a bank's loan-to-deposit ratio or to expand its assessment area. Nor should institutions that do not offer the ETA, regardless of whether their bid was not accepted or they chose not to offer the ETA as part of their business strategy, be downgraded in the service test or compared unfavorably with those who do.

4. Waiver Provisions

The procedures for waivers proposed by Treasury appear reasonable. It is appropriate for the validation process to be the responsibility of the paying agency, and we urge Treasury to define the account-opening process in such a way that the responsibility remains solely with the government and does not require financial institutions to be involved in determining the eligibility of consumers for accounts. However, it would be extremely helpful to know Treasury's estimate of the number of waivers that are expected to be granted so that projections of account volume will take into consideration the number of consumers expected to qualify for hardship and other waivers.

CBA has been and continues to be supportive of Treasury's position that federal payments are most appropriately directed to insured depository institutions. Restricting the receipt of electronic benefits to depository institutions addresses the appropriate concerns of the Treasury Department and consumers about the safety and soundness of the providers of these essential conduits, the oversight of their operations by federal and state regulators and the applicability of federal consumer protection laws.

The Proposal would permit banks to partner with non-bank third parties to provide delivery of electronic payments. These partnerships could prove to be very important by permitting banks to share the efficiencies of implementation. Furthermore, partnering would permit banks to outsource certain components of the ETA, thus increasing the ability of banks to create the most cost-effective account possible based on differing business practices. Treasury oversight of the banks with ultimate responsibility for the accounts should be sufficient to maintain consumer confidence.

Thank you for this opportunity to comment. We look forward to continuing to participate in this ongoing process. If you have any questions, please do not hesitate to contact me (703-276-3873 or msullivan@cbanet.org), Steve Zeisel (703-276-3871 or szeisel@cbanet.org) or Jim Febeo (703-276-3883 or jfebeo@cbanet.org).

Sincerely,

Marcia Z. Sullivan

Marcia Z. Sullivan
Director, Government Relations

Attachment

Utilities Launch Ad Blitz

SF Chronicle 9-23-97

By Jonathan Marshall
Chronicle Staff Writer

Californians will soon be barraged with an $89 million statewide public education campaign letting them know that customers can choose their electric power supplier for the first time on January 1.

The campaign, paid for by electricity consumers, was ordered by the California Public Utilities Commission in May and approved in August to help residents understand the revolutionary changes coming to the electricity market.

The first information flyers were distributed on the weekend of September 14, at Mexican independence day festivals statewide. They were also handed out at the San Francisco Blues Festival on September 21, along with souvenir electric safety plugs that carried the name of the campaign, "Plug in, California!"

Mass television advertising will begin next month, with spots in English, Spanish, Mandarin, Cantonese, Korean and Vietnamese.

"Without proper education of customers we could create chaos, not choice," said PUC President P. Gregory Conlon.

The media blitz is being directed by the state's major investor-owned utilities, including Pacific Gas and Electric Co., with oversight from the PUC.

The major contractors for the program are DDB Needham in Los Angeles, an advertising agency that previously led the California Department of Conservation campaign on beverage container recycling; and the Los Angeles public relations firm Rogers & Associates, which has worked for the state on anti-smoking and AIDS prevention efforts.

Community groups will be given up to $13 million out of the pot to help get the message across.

More than 40 focus groups around the state convinced the contractors that Californians don't understand the issues, said Russel Wohlwerth, management supervisor at DDB Needham.

Key messages in the media campaign will be that residential customers get an automatic 10 percent rate reduction on January 1; deregulation won't jeopardize safe and reliable service; and customers can't legally be switched to a new supplier without their consent.

The contractors promise "factual, unbiased information," but some critics warn that the campaign is tainted by the PUC's decision to put the utilities in charge.

"It's like having the fox guard the chicken coop," said Bob Finkelstein, a utility analyst at The Utility Reform Network, a San Francisco consumer group.

Finkelstein and other critics point to a July radio spot run by Southern California Edison, on its own initiative and dime, telling customers that all they have to do to benefit from competition is "Do nothing. . . . Do nothing, and as an Edison customer you'll get electricity at the wholesale price with no additional profit added on."

Environmentalists who want customers to buy more renewable energy worry that a "do nothing" message could undercut their efforts.

"We think there are people out there who want to buy 'green,' but to do that they have to leave the utility and buy from someone else," said Daniel Kirshner, an attorney with the Environmental Defense Fund.

But PUC President Conlon said "every message is being reviewed by our staff to make sure there is no message that will give the utilities an advantage or sell their products."

And Julie Blunden, regional director of Green Mountain Energy Resources, a competitive energy provider in Vermont, praised the customer education program as "a fabulous thing. It's very important that customers get, from a credible source, the message that choice is coming and changing suppliers won't threaten reliability; the lights will stay on."

This spring, the PUC turned planning of the information campaign over to a 19-member Electric Restructuring Education Group, which included representatives of consumer, community and environmental interests. But the commission decided this summer that the large group was too unwieldy to mount a campaign under tight deadlines.

Conlon defended the cost of the campaign, saying that the PUC ordered $69 million spent two years ago to publicize the Caller ID program for telephone consumers.